

FAO No.5613 of 2017 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

FAO No.5613 of 2017 (O&M)  
Date of decision: 22.05.2018

National Insurance Company Limited

.....Appellant

versus

Smt. Billo Devi and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Ms. Vandanaa Malhotra, Advocate, for the appellant.

**RAMENDRA JAIN, J. (ORAL)**

Through this appeal Insurance Company has prayed for setting aside impugned award dated 01.05.2017 of the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal').

Upon notice, contesting respondents No.1 and 2, despite their effective service for 08.05.2018 did not appear on that date as well as today. Hence, they are proceeded ex parte.

Learned counsel for the appellant-Insurance Company *inter alia* contends that according to respondents No.1 and 2-claimant, the accident took place on 20.02.2015 in which their son Anil Kumar died. FIR (Ex.P3) was got registered on the same day by one Jile Singh, cousin of the deceased against unknown vehicle and unknown driver. However, after three months and five days, all of a sudden, to the surprise of the appellant-Insurance Company, a car bearing registration No.HR-36T-0290 was introduced as offending vehicle and Mahipal Singh respondent No.3 as offending driver for causing death of Anil Kumar, without any evidence as

FAO No.5613 of 2017 (O&M)

to from where or from which source, the respondents-claimant or alleged eye witness of the accident came to know about the whereabouts of the alleged unknown vehicle and its driver. The Tribunal, erroneously on the basis of false statements of the respondents-claimant and alleged eye witness, has awarded compensation of ₹17,70,372/- to the respondents-claimant vide impugned award in illegal manner. The impugned award is not sustainable in the eyes of law from any angle.

Having given considerable thought to the submissions made by learned counsel for the appellant, this Court finds merit in the instant appeal for the reasons to follow.

The Tribunal has wrongly and illegally relied upon untrustworthy deposition of PW5 Sanjeev, who alleged himself to be an eye witness of the accident in question as a companion of deceased Anil Kumar on the date of accident inasmuch as he did not furnish any explanation as to why he did not report the accident in question to the police promptly or what circumstances refrained him from doing so, despite death of his companion on the spot. This witness, all of a sudden, to a utter surprise to the Tribunal, Insurance Company, driver and owner of the offending vehicle, appeared in the witness box on his own, though was never summoned as a Court witness and supported the case of the respondents-claimant furnishing his affidavit (Ex.PW5/A). Above conduct of this witness apparently proves his connivance with the respondents-claimant for extorting compensation from the Insurance Company in illegal manner.

More so, according to FIR, PW5 Sanjeev had also received injuries in the accident in question on his head, back and right hand. But he

did not produce medical or any first-aid treatment record or his medico-legal report narrating his injuries, which falsifies version of the author of the FIR

FAO No.5613 of 2017 (O&M)

that this witness had received injuries on his person, inasmuch as had it been so, he must have proved above record to strengthen his deposition and the case of the respondents-claimant as well. Even in his affidavit (Ex.PW5/A), PW5 Sanjeev did not disclose the name of the offending driver or registration number of offending vehicle. Therefore, his testimony before the Tribunal in the absence of the same is meaningless and, thus, has wrongly and illegally been taken into consideration by the Tribunal.

Jile Singh, author of the FIR, a cousin of the deceased and nephew of respondents-claimant, did not enter into the witness box to prove the contents of the FIR (Ex.P3) for the reasons best known to him. Therefore, an adverse inference is required to be drawn against the respondents-claimant that author of the FIR, namely, Jile Singh was not examined intentionally and deliberately, knowing well that he would not be able to face the test of his cross-examination by the opposite side.

Conduct of PW4 Manish Kumar, another alleged eye witness of the accident, is also completely unworthy of any credence. He also remained silent throughout and went to the police station to record his statement after three months without furnishing any explanation as to why he kept mum and went in a great slumber even after witnessing an accident in which precious life of a human being had lost in front of his eyes. He even did not ever dare or wish to contact the police or trace out the family members of the deceased for such a long period.

The inhumane, unnatural and abnormal conduct of the above alleged witnesses show that they were procured witnesses, only to extort compensation illegally, either from the Insurance Company or driver or

owner of the alleged offending vehicle.

The fact cannot be lost sight that in the recent past, there is an

FAO No.5613 of 2017 (O&M)

alarming increase in such type of false cases under the Motor Vehicles Act for extorting compensation from the Insurance Company in an illegal manner, introducing false witnesses and claiming compensation on falsehood on the basis of a friendly match in between the claimants and the offending driver hand in glove with each other for some extraneous reasons making Tribunals as a tool.

The Tribunals and Courts also by keeping their eyes shut, intentionally and deliberately, are illegally helping the fraudulent claimants, awarding exorbitant compensation wasting hard-earned public money on the basis of sentiments in the back of their minds, considering the Motor Vehicles Act, as a social legislation, irrespective of the fact that awarding compensation by accepting fraudulent claim petitions, they are dragging citizens of this country towards dishonesty.

Awarding compensation, on the basis of concocted and false stories introduced before the Tribunals and believing the same as gospel truth, without any corroborative evidence, what to talk of cogent and convincing evidence, simply on the ground of registration of belated false FIRs, without going deep into the merits that after passing of a considerable time from where the claimants or alleged eyewitnesses came to know whereabouts of the alleged offending driver and vehicle is completely illegal.

Judicial note is also taken of the fact that being a friendly match in between the claimants and alleged offending driver and owner of the vehicle, in criminal cases the offending driver is always acquitted as alleged eyewitness of the accident turns hostile.

FAO No.5613 of 2017 (O&M)

falsehood.

In the instant case, the Tribunal, without considering the above aspects of the case, simply relying upon the FIR without any cogent reasons, awarded exorbitant compensation of ₹17,70,372/- to the respondents-claimant in an illegal manner.

In view of the discussion above, the appeal is allowed. The impugned award is set aside. The Tribunal is directed to refund the amount deposited by the appellant-Insurance Company before it to the appellant immediately without any delay.

**May 22, 2018**  
R.S.

**(Ramendra Jain)**  
**Judge**

Whether speaking/reasoned      Yes/No

Whether reportable                Yes/No.